

COMSTOCK et al
Serial No. 09/716,440

Att'y Dkt: 2380-287
Art Unit: 2662

REMARKS/ARGUMENTS

Reexamination of the captioned application is respectfully requested.

A. SUMMARY OF THIS AMENDMENT

By the current amendment, Applicants basically:

1. Editorially amend the specification.
2. Thank the Examiner for allowance of claims 23-30, 53-60 and 82-89.
3. Thank the Examiner for the indication of allowable subject matter in claims 2-15, 17-20, 37-48, 66-77 and 96-101, as well as claims 31-35, 61-64 and 90-93.
4. Rewrite claims 2, 10, 17, 37, 44, 50, 66, 73, and 96 as independent claims.
5. Editorially amend claims 31, 61 and 90 to rectify the formal matters noted on page 5 of the office action.
6. Amend the dependency of claims 51 and 52.
7. Cancel claims 1, 16, 21, 22, 36, 49, 65, 78-81, 94-95 and 102-105 without prejudice or disclaimer.
8. Respectfully traverse all prior art rejections.

B. PATENTABILITY OF THE CLAIMS

All claims are deemed allowable by virtue of the indications of allowance or allowability as set forth in the office action.

Independent claim 50 includes limitations of previously-pending claims 36, 49, and 50. Although the Examiner appears to have rejected this combination, Applicants believe such rejection to be inconsistent with the remainder of the office action. In particular, the combination of limitations as now set forth in independent claim 50 which has been indicated to be allowable. Accordingly, Applicants deem independent claim 50 and claims dependent thereon to be allowable.

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C. THE CLAIMS ARE DEFINITE

The office action rejects certain claims under 35 USC §112, second paragraph, since they contain the phrase "a predetermined value". The office action appears to view such phrase as inconsistent with a teaching (on page 10) of the specification that "one or more predetermined values" can be utilized. There is no inconsistency nor indefiniteness. Understood in its totality, the specification teaches that a predetermined value can be used, but that predetermined value need not be the same for all implementations and therefore can change from implementation to implementation. The specification is not teaching that the more than one predetermined value can be used at the same time for the same implementation. If the Examiner has any lingering concern regarding this matter, please contact the undersigned.

D. MISCELLANEOUS

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly solicited.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,
NIXON & VANDERHYE P.C.

By: _____

H. Warren Burnam, Jr.
for H. Warren Burnam, Jr.
Reg. No. 29,366

HWB:lsb
901 Glebe Road, 11th Floor
Arlington, VA 22203
Telephone: (703) 816-4000
Facsimile: (703) 816-4100